

§ 260.8

16 CFR Ch. I (1–12 Edition)

The claim is likely to convey to consumers that the product is safe for the atmosphere as a whole, and is therefore, deceptive.

Example 3: The seller of an aerosol product makes an unqualified claim that its product “Contains no CFCs.” Although the product does not contain CFCs, it does contain HCFC–22, another ozone depleting ingredient. Because the claim “Contains no CFCs” may imply to reasonable consumers that the product does not harm the ozone layer, the claim is deceptive.

Example 4: A product is labeled “This product is 95% less damaging to the ozone layer than past formulations that contained CFCs.” The manufacturer has substituted HCFCs for CFC–12, and can substantiate that this substitution will result in 95% less ozone depletion. The qualified comparative claim is not likely to be deceptive.

[57 FR 36363, Aug. 13, 1992, as amended at 61 FR 53318, Oct. 11, 1996; 61 FR 67109, Dec. 19, 1996; 63 FR 24248, May 1, 1998]

§ 260.8 Environmental assessment.

(a) *National Environmental Policy Act.* In accordance with section 1.83 of the FTC’s Procedures and Rules of Practice⁷ and section 1501.3 of the Council on Environmental Quality’s regulations for implementing the procedural provisions of National Environmental Policy Act, 42 U.S.C. 4321 et seq. (1969),⁸ the Commission prepared an environmental assessment when the guides were issued in July 1992 for purposes of providing sufficient evidence and analysis to determine whether issuing the Guides for the Use of Environmental Marketing Claims required preparation of an environmental impact statement or a finding of no significant impact.

⁷ 16 CFR 1.83.

⁸ 40 CFR 1501.3.

After careful study, the Commission concluded that issuance of the Guides would not have a significant impact on the environment and that any such impact “would be so uncertain that environmental analysis would be based on speculation.”⁹ The Commission concluded that an environmental impact statement was therefore not required. The Commission based its conclusions on the findings in the environmental assessment that issuance of the guides would have no quantifiable environmental impact because the guides are voluntary in nature, do not preempt inconsistent state laws, are based on the FTC’s deception policy, and, when used in conjunction with the Commission’s policy of case-by-case enforcement, are intended to aid compliance with section 5(a) of the FTC Act as that Act applies to environmental marketing claims.

(b) The Commission has concluded that the modifications to the guides in this part will not have a significant effect on the environment, for the same reasons that the issuance of the original guides in 1992 and the modifications to the guides in 1996 were deemed not to have a significant effect on the environment. Therefore, the Commission concludes that an environmental impact statement is not required in conjunction with the issuance of the 1998 modifications to the Guides for the Use of Environmental Marketing Claims.

[63 FR 24251, May 1, 1998, as amended at 63 FR 24248, May 1, 1998]

⁹ 16 CFR 1.83(a).